



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

Emma Best
DEPT MR 66470
411A Highland Avenue
Somerville, MA 02144-2516
66470-54721460@requests.muckrock.com

Re: Appeal No. DOJ-AP-2019-002872
Request No. 1426092-000
CDT:PJA

VIA: Email

Dear Emma Best:

You appealed from the action of the Federal Bureau of Investigation on your Freedom of Information Act request for access to records concerning Bob Bergland. I note that your appeal concerns the adequacy of the FBI's search for records responsive to your FOIA request. Please note that this Office was closed due to a lapse in funding appropriations between December 22, 2018 and January 25, 2019, which resulted in a delay in responding to your appeal.

After carefully considering your appeal, I am affirming the FBI's action on your request. Please be advised that the FBI has found a reference to records that might be responsive to your request. These records, however, were transferred to the National Archives and Records Administration (NARA). For your information, the potentially responsive records are in file number 94-HQ-65784. If you have not done so already, you may wish to submit a request directly to NARA for the records you seek at the following address:

National Archives and Records Administration
Special Access and FOIA Staff
NWCTF-Room 5500
8601 Adelphi Road
College Park, MD 20740

I have determined that the FBI's action was correct and that it conducted an adequate, reasonable search for such records.

Furthermore, to the extent that your request seeks access to records that would either confirm or deny an individual's placement on any government watch list, the FBI properly refused to confirm or deny the existence of any such records because their existence is protected from disclosure pursuant to 5 U.S.C. § 552(b)(7)(E). Exemption 7(E) concerns records or information compiled for law enforcement purposes the release of which would disclose techniques and procedures or guidelines for law enforcement investigations or prosecutions.

Further, it is reasonably foreseeable that confirming or denying an individual's placement on any government watch list would harm the interests protected by this exemption. See, e.g., Kalu v. IRS, 159 F. Supp. 3d 16, 23 (D.D.C. 2016). This response should not be taken as an indication that records do or do not exist. Rather, this is the standard response made by the FBI.

Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request, and the action of the FBI in response to your request.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. If you have any questions regarding the action this Office has taken on your appeal, you may contact this Office's FOIA Public Liaison for your appeal. Specifically, you may speak with the undersigned agency official by calling (202) 514-3642.

Sincerely,

5/13/2019

X



Christina D. Troiani, Associate Chief, for
Sean O'Neill, Chief, Administrative Appeals Staff
Signed by: OIP